

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 6693 of 2002

-

DATED: 17-08-2005

Smt. L. Sirisha & 10 others.

..... PETITIONERS

AND

The Municipal Corporation of Hyderabad,
rep., by its Commissioner,
Tank Bund Road, Hyderabad & 2 others.

.....RESPONDENTS

ORDER:

-

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Certiorari to call for the records pertaining to the impugned proceedings of the 1st respondent in proceedings No.158/TP5/2000-544, dated B/13-03-2002, and quash the same as being arbitrary, illegal and unconstitutional; and consequently to direct the respondents to forthwith issue building permission to the petitioners.

2. It is the case of the petitioners that they purchased an extent of 10.400 sq.yards from the members of one Anand Prabhat

Co-operative Housing Society Limited. The said Society had in turn purchased the property along with certain other property admeasuring in total 24590 sq.yards from the erstwhile vendor, T.V.Ramachandraiah and the said Ramachandraiah had in turn purchased the said property from the erstwhile owners Ramulu and Narayana.

The 1st respondent issued permission on 08-01-1965 to the said Ramachandraiah for construction of a house. It is evident that in the records of the 1st respondent the

property now purchased by the petitioners is being recorded to be possessed and owned by the petitioners' vendors right from 1964 onwards. The petitioners were in actual physical possession of the plots from the date of purchase and the said Society had erected a temporary shed for watchman and also a stone boundary wall. While so, when the 3rd respondent sought to allot the said property to other Co-operative Societies, the predecessor-in-title of the petitioners and the Society filed O.S.No.1615 of 1979 before the VII Assistant Judge, City Civil Court, Hyderabad, and the same was dismissed. Against the dismissal order, A.S.No.209 of 1991 was preferred and the same was allowed. While so, the petitioners submitted an application to the 1st respondent for construction of Row houses under Group Housing Scheme, and the same was not considered by the respondents. On a representation of the petitioners, dated 13-06-2000, to the respondents, the petitioners were directed to obtain a 'No Objection Certificate' from the 3rd respondent. Challenging the same, the petitioners filed W.P.13101 of 2001 and the same was disposed of on 06-07-2001. In pursuance of the said order, the petitioners made a representation, dated 07-07-2001, to the respondents, resubmitting the plans for building permission. While so, the 2nd respondent issued a letter No.158/TP5/2000-1912 on

05-07-2001, *inter alia* directing the petitioners to submit the required particulars for taking further action in the matter. The petitioners submitted a reply on 11-07-2001 furnishing all the particulars and once again requested the respondents to grant building permission. Despite the same, the 1st respondent issued the impugned proceedings No.158/TP5/2000-544, dated 08-02-2002, rejecting the building permission of the petitioners. Aggrieved thereby, the petitioners approached this Court by way of filing the present Writ Petition.

3. Heard both sides.

4. I have perused the entire material on record.

5. Without going into the merits of the case and in view of the judgment reported in **HYDERABAD POTTERIES PVT.LTD., v. COLLECTOR, HYDERABAD**

DISTRICT AND ANOTHER, the impugned order in proceedings No.158/TP5/200-544, dated 08-02-2002, is hereby set aside. The petitioners are directed to submit their applications in compliance with the byelaws 4.2 (i) and (ii) of the Building Bye-Laws, 1981 within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the respondents are directed to consider and pass appropriate orders in accordance with law.

6. Accordingly, the Writ Petition is allowed. No order as to costs.

(DHARMA RAO ELIPE,J)

17th August, 2005.

tsy

-